



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Valley Regional Office

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Robert G. Burnley
Director

R. Bradley Chawning, P.E.
Valley Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION

ORDER BY CONSENT ISSUED TO

Harrisonburg Resource Recovery Facility
Registration #: 81016

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1187, -1184, -1307(D), -1309, and -1316(C), between the State Air Pollution Control Board and Harrisonburg Resource Recovery Facility, for the purpose of resolving certain alleged violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.

4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order, and incorporates the additional terms and conditions as set out in Appendix A to this document.
6. “HRRF” means Harrisonburg Resource Recovery Facility, a facility that produces steam, chilled water, and electricity from the combustion of municipal solid waste.
7. “Facility” means the Harrisonburg Resource Recovery Facility located at 1630 Driver Drive, Harrisonburg, Virginia.
8. “VRO” means the Valley Regional Office of DEQ, located at 4411 Early Road, P.O. Box 3000, Harrisonburg, Virginia 22801.
9. “CFR” means Code of Federal Regulations.

SECTION C: Findings of Facts and Conclusions of Law

1. DEQ issued a Notice of Violation (NOV) to HRRF on September 30, 2004 based upon information obtained during air inspections of the Facility conducted subsequent to the issuance of a separate NOV, which was issued to HRRF on July 12, 2004. This Order concerns only those violations cited in the September 30 NOV, which are set out below:
 - a. Condition IV.A.5 of HRRF’s Title V Operating Permit, effective January 14, 2004, limits each of HRRF’s two municipal waste combustion units (MWCU, referencing Units Nos. 1 and 2) to a throughput limit of no more than 36,500 tons per year of municipal solid waste (MSW), with the annual throughput calculated monthly as the sum of each consecutive 12-month period. HRRF was found to not satisfactorily demonstrate any effective method for ensuring that this limit is not exceeded.
 - b. Permit Condition IV.A.7 requires that opacity for each MWCU shall not exceed 10 percent for any thirty six-minute averages. The EER/COMS performance report for Unit No. 1 indicated that excess emissions occurred for 10% of the operating time during the second quarter of 2004. Although HRRF has informed DEQ that steam from a nearby vent is causing the COMS lens to fog, thereby giving false readings, HRRF has not submitted data confirming that no exceedances in fact occurred.
 - c. Permit Condition IV.A.14c requires HRRF to maintain an eight-hour block average carbon feed rate at or above the highest average level established during the most recent dioxins/furans or mercury test. HRRF’s semiannual deviation report for the first half of 2004 indicated that the carbon feed rate was below the required rate for seven days on Unit No. 1 and for two days on Unit No. 2.

- d. Permit Condition IV.B.6.c requires HRRF to obtain valid one-hour averages of, *inter alia*, SO₂ for 90% of the operating days per calendar quarter. HRRF's EER/CEMS performance report for the second quarter of 2004 indicates that the SO₂ monitor uptime was 88.4%, which is less than the 90% threshold.
 - e. Permit Condition IV.B.10 requires HRRF to maintain the combustion temperature for each MWCU at a minimum temperature of 1500°F when each Unit is in normal operating mode, except during startup, shutdown, or malfunction. The semiannual deviation report for the first half of 2004 indicated that the combustion chamber temperature was below the 1500°F threshold for four-hour block averages on 11 days each for Units No. 1 and No. 2.
 - f. Permit Condition IV.A.14c states that HRRF shall not operate the MWCU at loads greater than 110% of the maximum demonstrated unit load. The semiannual deviation report for the first half of 2004 indicated that the feed water flow rate to Unit No. 2 was exceeded on June 15, 2004 for two consecutive four-hour block averages.
 - g. Permit Condition VIII.E requires HRRF, in the event that any facility or air pollution control equipment "fails or malfunctions in such a manner that may cause excess emissions for more than one hour," to notify DEQ "as soon as practicable but no later than four daytime business hours after the malfunction is discovered" and "shall within 14 days of discovery provide a written statement giving all pertinent facts, including the estimated duration of the breakdown." Timely notifications for the deviations noted in Items c, e, and f above were not made to DEQ.
2. DEQ permitting, compliance and enforcement representatives met with HRRF representatives and the Harrisonburg City Manager, Roger Baker, on December 13, 2004 to discuss the violations and establish a corrective action plan (CAP) to resolve all the violations set out in the September 30, 2004 NOV.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§ 10.1-1186(2), 10.1-1309, and 10.1-1316(C), orders HRRF, and HRRF voluntarily agrees to the following conditions in settlement of the violations cited in this Order:

1. HRRF agrees to pay a civil charge of **\$8,260.00** within 30 days of the effective date of this Order. Payment must indicate that the civil charge is paid pursuant to this Order, and shall include HRRF's Federal Identification Number. Payment shall be by check, certified check, money order, or cashier's check payable to "**Treasurer of the Commonwealth of Virginia**" and sent to:

**Receipts Control
Department of Environmental Quality
P. O. Box 10150
Richmond, Virginia 23240**

2. And, HRRF shall comply with the terms and conditions as set out in Appendix A to this Order, which shall be HRRF's corrective action plan (CAP).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of HRRF, for good cause shown by HRRF, or on its own motion after notice to HRRF and its opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, HRRF admits to the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. HRRF consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. HRRF declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right of HRRF to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by HRRF to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.

8. HRRF shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. HRRF shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. HRRF shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which HRRF intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and HRRF. Notwithstanding the foregoing, HRRF agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to HRRF. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve HRRF from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, HRRF voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 9 FEB, 2005.

Robert G. Burnley
Robert G. Burnley
Department of Environmental Quality

HRRF voluntarily agrees to the issuance of this Order.

By: *Ray Baker, City Manager*
Date: *Jan 27, 2005*

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 200__, by _____, who is
(name)

_____, of HRRF, on behalf of HRRF
(title)

Notary Public

My commission expires: _____

See attached

ACKNOWLEDGMENT

State of Virginia

County of Rockingham

On 1/07, 2003 Roger D Baker

personally appeared before me,

 who is personally known to me

 whose identity I proved on the basis of

 whose identity I proved on the oath/affirmation of

_____, a credible witness

to be the signer of the above instrument, and he/she acknowledged that he/she signed it.

Richard Tracy
Notary Public Works

Notary Public Works

My commission expires 4/30/07

APPENDIX A

In addition to the foregoing, the Virginia State Air Pollution Control Board orders and HRRF agrees to implement the following terms and conditions of this Appendix:

1. **Municipal solid waste (MSW) calculation (Permit Condition IV.A.5):** HRRF shall calculate MSW feed to each municipal waste combustion unit (MWCU) using monthly inventories and apportioning trash feed to each unit based on feed water make-up flow. HRRF shall submit to DEQ a written plan to calculate the feed rate to each unit and shall submit an operating procedure for completing monthly trash inventories and calculating feed rates to each unit. This plan and operating procedure is subject to DEQ approval and shall be submitted by HRRF to DEQ within 30 days of the effective date of this Order. This plan and operating procedure shall become part of this Order upon its approval by DEQ.
2. **Opacity (Condition IV.A.7):** HRRF shall devise a method to prevent steam from fogging the COMS lens and shall submit to DEQ a statement of corrective actions taken to prevent this event from recurring. This statement of corrective actions shall be submitted by HRRF to DEQ within 30 days of the effective date of this Order.
3. **Carbon feed rate (Condition IV.A.14c):** HRRF shall submit to DEQ a written corrective action plan to improve reliability of the carbon feed system to ensure compliance with the block average carbon feed rate set forth in HRRF's permit. HRRF shall submit this corrective action plan to DEQ within 30 days of the effective date of this Order.
4. **EER/CEMS monitor operating time (Condition IV.B.6.c):** HRRF shall submit to DEQ a written plan to ensure that valid one-hour averages of SO₂ from the CEMS monitor for 75 percent of the operating hours per day and for 90 percent of the operating days per calendar quarter is collected in accordance with HRRF's permit. For periods of CEMS failure, the plan shall include measures that require either shutdown of the affected unit or alternative sampling and data collection methods. HRRF shall submit this plan to DEQ within 30 days of the effective date of this Order.
5. **MWCU combustion temperature (Condition IV.B.10):** HRRF shall submit to DEQ a written plan to ensure that the combustion chamber temperature at each MWCU is maintained at a minimum temperature of 1500 degrees F when the unit is in normal operating mode, and that the combustion chamber is equipped with a device to continuously measure the temperature in accordance with HRRF's permit. HRRF shall submit this plan to DEQ within 30 days of the effective date of this Order.
6. **Maximum demonstrated MWCU unit load (Condition IV.A.14.a):** HRRF shall submit to DEQ a written plan to ensure that the MWCUs are not operated at loads greater than 110 percent of the maximum demonstrated unit load of each MWCU in accordance with HRRF's permit. HRRF shall submit this plan to DEQ within 30 days of the effective date of this Order.